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Prelicensing, Postlicensing Education; New License Application Requirements Among Changes

As of July 1, 2009, new laws and revised administrative rules regarding a multitude of issues, such as licensing requirements and education, are in effect. Here is a summary of the changes:

State and Federal Criminal Background Checks

All new applicants for licensure and licensees under disciplinary investigation will be required to submit to a state and federal criminal background check and provide DCI and FBI fingerprint cards.

New Prelicensing Education Hours for Broker Associates

The prelicensing course has been expanded to 116 hours. Individuals who completed their prelicensing education prior to July 1, 2009 will be permitted to submit 100 hours with their license applications.

Postlicensing Education for NEW Broker Associates

Postlicensing education is required of persons receiving initial licensure as a broker associate on or after July 1, 2009. Each new broker associate shall complete 60 hours of postlicensing education in topics prescribed by the commission as follows:

Thirty hours must be completed during the initial licensing period and shall include a minimum of six (6) hours in the following areas:

- Agency;
- Contracts;
- Fiduciary duties/trust accounting/earnest money
- Business planning
- Ethics/Professional Liability

Thirty hours must be completed during the 2nd licensing period and shall include a minimum of six (6) hours in the following areas:

- Negotiation
- Real estate license law
- Technology
- Marketing/Advertising
- Property Issues

The postlicensing education hours apply towards the continuing education requirements for license renewal. Broker associates required to complete postlicensing education will be notified by the SDREC office of this education requirement. Broker associates licensed prior to July 1, 2009 will be required only to complete the continuing education requirements currently in place.

Electronic Filing for Complaints

The amended rules allow for a complaint and/or response to be filed with the commission office electronically.

Business Corporations Formed for Receiving Commissions

SDCL 36-21A-46.1 was amended to add brokers to the list of licensees who may form a business corporation or LLC for the purpose of receiving commissions.

Continued on page 5



From the Director's Desk

The proposed administrative rules adopted by the Commission at its May public rules hearing have now passed the Rules Review Committee of the Legislature. These rules and the legislation that was passed in the 84th Legislative Session are effective July 1, 2009. Because of the numerous changes taking place in regard to the Commissions statutes and administrative rules, the Commission will be publishing a new license law book. Those of you who are nonresident licensees, including reciprocal licensees, need to take special note of the administrative rules affecting your renewal requirements.

Also effective July 1st, the Commission will be under the leadership of Dennis Eisnach who will be taking the gavel from Eileen Fischer. Paula Lewis will serve as vice-chair. It's been a pleasure working with Commissioner Fischer as chair and I look forward to working the new leadership.

Please read the article on short sales that appears elsewhere in this newsletter. I've been receiving quite a few calls from licensees in regard to this recent trend in home sales. The Commission has been fortunate in procuring a speaker who will give an in-depth presentation about short sales at the Commission's Fall 2009 Caravan. Please plan on attending. You will receive valuable information to better prepare you in assisting your client in these types of sales. Agency will be another topic covered at the Caravan. This continues to be a subject that often generates phone calls to my staff and me.

Be aware of a scam happening on Craigslist that targets South Dakota listings and potential rentals. South Dakota property listings advertised on MLS sites or other Internet sites are being transferred to Craigslist showing the properties as now being offered for lease by the "owner". A potential renter can

view the Virtual Tour to get an idea. The potential renter then contacts the "owner" who gives a reason as to why the property is no longer for sale. The "owner", who claims to be temporarily out of the country, has the key in his or her possession so advises the potential renter to take a look at the house and surroundings and if interested, complete a rental form. Eventually, money ends up being sent to the "owner" whose mailing address is in Nigeria. Two South Dakotans have been very close to being take advantage of. One actually mailed a check, but luckily was able to stop payment on it.

The Commission recently became aware that Justin Zickrick, long time auditor for the Commission, passed away. I'm sure those of you who have been licensed for quite awhile remember him. My condolences go out to his wife Lois and the entire Zickrick family.

DjN

Commission Members Re-appointed

Commission members Charles Larkin of Watertown and Paula Lewis of Rapid City have been re-appointed by Governor Rounds to each serve an additional 3-year term on the Commission.

Larkin has served as a commissioner since 1997 and Lewis was originally appointed in 2005.



In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensee who recently passed away:

Lonnn Counts, Pray, MT

Builder's Energy Efficiency Disclosure Statement

As of July 1, 2009, builders are required to disclose certain energy efficiencies for new residential buildings. SDCL 11-10-8, 11-10-9 and 11-10-10 outline the requirements, exceptions to the requirements and the actual disclosure form. Real estate licensees should be aware of these requirements, especially when working with buyers of newly-built homes.

These statutes are NOT in the license law book as they fall under the chapter of law regarding building codes and standards. The builder's disclosure form, however, is available on the SDREC website under Real Estate Forms.

2009 Fall Caravan

The Fall Caravan dates have been finalized! Registration information is available on the SDREC website at www.state.sd.us/sdrec under "2009 Fall Caravan Information". Registration forms will also be included in the August/September issue of the Real Estate View.

This fall's topics are Agency and Short Sales. Lynn Madison of Lynn Madison Seminars will be the featured presenter. Be sure to read Lynn's articles on these important subjects in this newsletter!

Caravan Dates/Locations

Wednesday, September 9 – Pierre
Ramkota

Thursday, September 10 – Rapid City
Rushmore Plaza Civic Center

Friday, September 11 – Spearfish
Holiday Inn

Monday, September 28 – Aberdeen
Ramkota

Tuesday, September 29 – Watertown
Ramkota

Wednesday, September 30 – Sioux
Falls Holiday Inn City Centre

Thursday, October 1 – Sioux Falls
Ramkota

Short Sales

*By Lynn Madison
Fall Caravan Presenter*

Given current economic conditions, it's probably not a matter of whether you'll be involved in a short sale but when you'll be involved. It's an unfortunate fact of the marketplace and economy. Doing a lender-involved short sale is not "business as usual." It requires more work on the part of the seller and both agents than a typical transaction.

First, we need to define short sale. The National Association of REALTORS® defines a short sale (or a potential short sale) as:

"... one where the listing agent reasonably believes the purchase price may not be enough to cover payment of all liens and costs of sale and the seller is unwilling or unable to bring sufficient liquid assets to the closing."

For this article we will break that down further into lender-controlled short sales, where the seller owes more than the property will sell for, and upside-down sellers (for lack of a better term), where the property will sell for what is owed, but not for enough to cover the costs of the sale.

Let's take a look at the steps involved.

Step One: Determine the Seller's Position - It is critical that we ask the right questions at the time of the seller counseling session to determine the seller's position. Preparing a seller's net equity sheet is just the beginning. Asking whether the seller is in arrears, whether there is a pre-payment penalty, whether he or she is in any pre-foreclosure position, etc., will help to ensure you do not end up with an unclosable transaction. It is an unfortunate fact that in many cases REALTORS® don't know that the seller is in distress until the payoff is ordered – way too late to manage the transaction to a successful close.

Step Two: Does the Seller Want to Sell? - There are options if the seller is in distress. If the seller wants to keep the house, you should advise him or her to speak to a lender about a workout. If the seller cannot afford to or does not wish to stay in the property, a short sale is one of the best options.

Step Three: Prepare the Seller for the Process - Once the seller accepts an offer the work truly begins. In many cases, the seller will need to provide more information to the lender to get out of the mortgage than he or she provided to get the loan in the first place. A short sale package will need to be submitted with the contract. The lender will want all of the seller's financial information: what has changed since the loan was initially taken; what the agent has done to market the property; repair lists; and an accurate and thorough calculation of closing expenses. In addition, paperwork needs to be completed that gives the lender permission to speak with the agent. Attorneys and tax advisors need to be consulted to determine if the seller will need to pay back the forgiven debt and, if not, whether income taxes are owed on that money.

Step Four: Prepare Everyone for the Waiting Time - These transactions take time. The lenders are overwhelmed by them and staffing is a problem. The agents who are doing short sales now tell us that it can take from 30 days to five months to get one approved. The timing is greatly influenced by the thoroughness of the short sale package provided when the offer is submitted to the lender, but it is also a function of the lender's ability to work the short sale through their system – something over which we have no control.

It is imperative that the buyer agent prepare the buyer for the wait time. Not all buyers are good candidates for a short sale purchase and the agent should counsel buyers thoroughly on what to expect.

Step Five: Compensation, MLS and Other Requirements - Another unfortunate by-product of the short sale transaction is the compensation. It is the seller who owes the compensation – not the lender – so in many cases lenders are not agreeing to compensate brokers at the same level the seller had committed to. In teaching the REBAC course "Short Sales and Foreclosures: What Every Buyer Agent Needs to Know" across the country, I ask how many of those involved in a short sale transaction have had the lender "tinker" with their commission. It's almost always half and half, so be prepared. In February of 2009 FNMA created a policy regarding

commissions on short sales and instructed their lenders not to 'tinker' below a certain level. More information on this can be found at www.Realtor.org but remember, it affects only FNMA loans.

In May of 2008, the Multiple Listing Policy Committee of NAR changed the rule to reflect that all MLS's allow the listing broker the ability to disclose in the MLS whether the property is a potential short sale. Whether the MLS makes this disclosure mandatory or voluntary is an individual MLS decision. Please check your MLS rules and regulations for property disclosure of a short sale.

The reason many MLS's have gone with mandatory disclosure of lender controlled short sales is twofold. One, many buyers, as we discussed, are not good candidates for the long waiting time required to purchase a short sale and there have been numerous situations where buyers have lost other homes they liked while negotiating on one they didn't know was in a short sale position. Secondly, the requirement that a listing broker pay the compensation published in the MLS on the day the negotiations are begun is modified only when it is a court or lender approved sale and disclosure of that should be done prior to the buyer agent producing an offer.

Two disclosures or addendums will need to be created, either by your association or by your company. The first is the seller's permission to disclose the short sale in the MLS and to potential buyers. The second is the addendum to the sales contract that creates the contingency of lender's approval. All MLS requirements for disclosure and reporting of existing contracts on the property will also need to be followed. (Editors Note: WRA forms Addendum SSL to the Listing - Short Sale and Addendum SSO to the Offer - Short Sale are the forms referred to above, respectively.)

A reminder: All offers must be presented to the seller all the way to the closing unless the seller has waived this right in writing. It is generally in the seller's best interest to continue to show the property and solicit other offers. Depending on who the lender is will determine whether subsequent offers are submitted (some lenders only want one offer submitted at a time). This is

generally determined at the time of submission of the first offer.

It is not unusual to hear about agents – or whole companies – who do not do short sale listings. They are more work than a typical transaction and need continued follow up and “baby-sitting.” Many agents do not want to get involved in these types of transactions and many brokers believe the liability is too great. You certainly have the right to make the decision not to list short sale properties and refer the sellers to a knowledgeable broker in your marketplace who has expertise in this area.

If you do decide to assist distressed sellers, please seek out further training and education on short sales. The REBAC Short Sale and Foreclosure class mentioned earlier is an excellent way to further your knowledge in this area. There are also numerous programs offered through your associations that will prepare you for the process.

Lastly, stay informed. The short sale landscape changes constantly and what may be the case today, may not be tomorrow. The short sale process is being affected by Federal Guidelines that seem to change constantly. Depending on what happens with future Federal TARP funds distribution and the next billions that are allocated to restoring our economy as well as the requirements put on lenders regarding foreclosures we could see even more.

Duties in Conflict

*By Lynn Madison
Fall Caravan Presenter*

Disclosed limited agency, in which you represent both the buyer and the seller in the same transaction, gives you the flexibility to advise both parties and can reduce the adversarial atmosphere of negotiations. On the other hand, it means full representation isn't available to either the buyer or seller—and because it isn't always fully understood by agents or consumers, it can lead to misunderstandings and added liability.

Concerns about limited agency generally center around keeping price and motivation confidential so that neither the buyer or the seller lose bargaining position: Don't disclose to the seller how

much the buyer is willing to pay. Don't tell the buyer the “real” reason the seller is selling. Don't tell the seller how much the buyer really loves the house.

Because of the inherent potential for conflicts of interest, buyers and sellers must understand the implications of the relationship and give their informed consent. Your fiduciary duties to clients in a limited agency relationship are limited compared with traditional agency. For instance, the fiduciary duty of loyalty to the client is limited to confidentiality and the negotiation process.

Many limited agents find themselves in complex situations, where it is difficult to know how to best serve both the buyer and the seller. Consider these familiar scenarios:

You are the listing agent but as a favor to the selling agent who is in your office, you go on the home inspection with the buyer and even though you let the inspector lead the way, you overhear the buyer saying things like, “That's fine; I can take care of that myself” or, “No problem; my brother's a carpenter”. The buyer lists those same items as repairs they want the seller to make, but you know the buyer probably doesn't really *need* the repairs.

You receive an offer from your buyer on your own listing. When you present it to your seller, he asks about the other buyers who looked at the property in the last few days: “Please call all their agents to see if they're interested.” The seller won't move forward with the offer until you do. Your buyer really wants this house and has asked you to let him know if there are any other offers. Yet the seller has instructed you not to tell the buyer if another offer comes in for fear it will cause him to walk away.

You know a seller in your office accepted a \$125,000 offer on their \$140,000 listing from another buyer but that deal fell through. You now have a buyer who looked at the property and is thinking of offering \$130,000. Can you tell them the seller was willing just last week to take \$125,000?

In order to minimize the potential conflicts of interest that can arise from limited agency—and the inherent potential liability risks to your brokerage—brokers should:

Ensure that confidential information stays confidential within the office by securing your files, including listings and contract pending.

Educate your agents about having conversations in the office, especially when it involves buyer feedback. Agents shouldn't reveal the buyers' comments if they could undermine their negotiating position.

Keep the fax machine in a secure place. Instruct your agents to have buyers, sellers and other agents refrain from faxing sensitive documents into the office without verifying the agent is there to receive them.

Know your state laws on limited agency. Solutions will depend on whether you're doing in-office limited agency, designated agency, or another variation. Even transactional or facilitator formats have state-by-state requirements for maintaining confidentiality and proper conduct with the buyers and sellers.

Have a clear policy that outlines how you want your agents to handle multiple offers when they have an offer on their listing at the same time someone else does.

Hold a training class on agency disclosure. Both new and experienced agents can benefit from a refresher on the proper procedures for disclosing not only limited agency but agency in general.

The time is now for broker's to re-examine their policies and procedures to minimize their—and their agents'—risks.

Lynn is the owner of Lynn Madison Seminars, Inc., a full-service training and development company devoted to the advancement of professionalism in real estate. She is a certified CE instructor in over 40 states and is a senior instructor for the ABR program. Lynn has served on the NAR Cultural Diversity/EOH and Risk Management Committees, and currently serves on NAR's Professional Standards Committee.

Calendar of Events

August 12-13 Commission Meeting,
Pierre

New Laws, Rules in Effect

Continued from page 1

Acts Constituting Unprofessional Conduct

Improper influence of a real estate appraisal by a real estate licensee has been added to the list of acts constituting unprofessional conduct.

Responsible Broker Course Completion

The commission may, under certain circumstances, allow an applicant for responsible broker's license to complete the 15-hour responsible broker course after licensure as a responsible broker. The applicant must seek permission from the commission prior to application, complete the 15-hour responsible broker course within 6 months of the date of the approval and otherwise meet all other requirements.

Commission Split

The amended rules clarify that a licensed broker may share a commission with a licensed broker in another state provided the latter does not carry on any negotiations in this state by physically entering the state or by electronic means or through any other media.

Photocopies of licenses

The only license that may be displayed is the original or a duplicate issued by the commission. Licensees may not photocopy their license for display.

Nonresident Licensing, Renewal and Education

Several administrative rules were amended in regard to nonresident licensees. The term "reciprocal" has been changed to "nonresident" for uniformity. The result of these changes is to require all nonresidents seeking a South Dakota license to successfully pass the state portion of the SD licensing examination.

Nonresident applicants must also submit a recent certificate of licensure from the nonresident's home state and any other state where the applicant has ever held a license. The applicant must have an active license in their resident state and be in good standing to receive a SD license.

In order to renew the SD license, a nonresident must submit with the renewal form, a certificate of licensure from their state of residency indicating the license is active and in good standing. Nonresidents who hold

SD licenses do not need to comply with the South Dakota continuing education requirements provided they are in compliance with the continuing education requirements in their state of residence.

Prelicensing Instructor Requirements

An instructor seeking approval to teach prelicensing courses must complete the 15-hour responsible broker course prior to approval and complete an approved instructor development workshop within one year of approval.

Sellers May Receive Attorney Fees

SDCL 43-4-42 has been amended to allow sellers to be awarded costs and attorney fees in actions involving the disclosure statement.

New Licensees

The SDREC would like to welcome the following new licensees:

Auctioneer

Atkins, Peter - Tea

Broker

Beesley, Chris M – Custer
Menke, Jayson R – Grand Forks, ND
Pederson, Vernon A – Moorhead, MN
Roerber, Micheal – Sioux City, IA
Sherman, Jocelyn Leigh – Sioux City, IA
Stone, Marlon E – Highland Park, IL

Broker Associate

Aldinger, Kendall J – Spearfish
Atkins, Peter – Tea
Benning, Heather L – Hill City
Benning, Tim A – Hill City
Burns, Stephanie – Brandon
Cox, Jessica A – Rapid City
Crawford, Brian D – Hot Springs
DeWitt, Bradley D – Rapid City
Duncan, Raphael C – Aberdeen
Fedt, Darin E – Sioux Falls
Helland, Mary G – Rapid City
Hohm, Zachary B – Sioux Falls
Johnston, Julie A – Sioux Falls
Jordan, Darla M – Wagner
Kramer, Brandon J – Rapid City
Lucero, Derek A – Lead
Messerschmidt, Rick – Glendale, AZ
Novstrup, David A – Aberdeen
Oman, Gregory E – Rapid City
Thompson, Forrest D – Rapid City

Home Inspector

Wambach, Michael A – Aberdeen

Property Manager

Berreth, Nicole M – Brookings
Farmer, Jamie K – Lead
Hart, Autumn E – Spearfish
Houtman, Kristine L – Brookings
Taylor, Stephen L – Elk Point
Uhl, Jonathan J – Hot Springs

Residential Rental Agent

Gabriel, Kari S – Fort Pierre
Hart, Jesse L - Spearfish

Salesperson

Hiserote, Chanthala – S. Sioux City, NE
Olmstead, Brooke N – Sioux City, IA
Tolifson, Stacy – Wheaton, MN

Timeshare Agent

Bray, Casey – Rapid City
Graham, Cory J – Rapid City
McMacken, Ilze – Rapid City

South Dakota Real Estate VIEW

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

Appraiser Certification Program Mission-Purpose-Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress.

The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

USPAP Q & A

Vol. 11, No. 5, May 2009

Effective Date and the Date of the Report

Question: I have been engaged to perform a real property valuation assignment. The assignment is to develop

an opinion of the market value of the subject property in its current "as-is" condition. USPAP states, "Current appraisals occur when the effective date of the appraisal is contemporaneous with the date of the report." In this context, what defines contemporaneous with the date of the report?

Relying On the Reports of Others

Question: I am a business valuation appraiser and do not perform real property appraisal assignments. As a result, I sometimes rely on the results of a real property appraisal to determine the value of business equity. The real property appraisal report is not contained in my business valuation report; however, the real property value conclusion (the dollar amount) is indicated in my report. An example of this would be a real property holding company in which the value of the equity may be significantly dependent on the value of the owned real property. What is the appropriate way to address such reliance of the real property appraisal within my business valuation appraisal report?

Answers to the above questions can be found at: www.appraisalfoundation.org.

[For further information regarding USPAP Q&As contact The Appraisal Foundation at: www.appraisalfoundation.org]

New Licensees – June 2009

Alex V. Protsch, State-Registered – Howard, SD

Andrew J. Bang, State-Registered – Canton, SD

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Dept. of Revenue and Regulation, Appraiser Certification Program, 445 E. Capitol Ave.,

Pierre, SD 57501 or e-mail – Sherry.Bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))

The following disciplinary action has been taken by the Dept. of Revenue and Regulation, Appraiser Certification Program:

Bryce D. Nelson, Rapid City – Complaint Case # 08-288. The Dept. of Revenue and Regulation issued a Final Order Suspending Bryce D. Nelson's, State-Certified General Appraiser Certificate for sixty (60) days effective June 5, 2009, prescribing successful completion of appraiser education and assessing a \$600 unprofessional conduct penalty for violations of ARSD 20:14:06:01 (Uniform Standards of Professional Appraisal Practice, Standard 1 and Standard 2).

Anonymous Complaints

ARSD 20:14:11:01.01. Anonymous complaints. Initiation of an investigation may be commenced upon receipt of an anonymous complaint if it meets the following criteria:

(1) The allegations of violations of any provision of this article are considered credible and based upon factual information which is independently verifiable; and

(2) The complaint is accompanied by a copy of the appraisal report or other documents which contain clearly identifiable errors or violations of the provisions of this article.

2009 Renewal

The 2009 renewal applications will be mailed the first week in July. In order to renew your certificate for state-certified general, state-certified residential, state-

licensed and state-registered appraiser you must submit the completed application, applicable renewal fees and verification of 28 hours of approved continuing education which includes the 7-hour National USPAP update course by August 17, 2009. (The 15-hour National USPAP Course may not be submitted in lieu of the 7-hour National USPAP update course.)

Training Course for Supervising Appraisers And State- Registered Appraisers

Pursuant to the Department of Revenue and Regulation, Appraiser Certification Program administrative rules regarding appraisers the supervising appraiser and the state-registered appraiser are required to successfully complete the Training Course for Supervising Appraisers and State-Registered Appraisers either before supervision begins, or within 90 days after such supervision begins. If the supervisor does not complete the department's education program within the 90 days after the supervision begins, the supervisor may no longer supervise the state-registered appraiser until the class is completed. If the state-registered appraiser does not complete the department's education program within 90 days after the supervision begins, the state-registered appraiser may no longer work under the supervision of the supervisor until the class is completed. An extension may be granted to complete the Course by the secretary upon written request. [ARSD 20:14:04:12.02(2) and ARSD 20:14:04:14(4)]

NEXT COURSE OFFERING:

**Department of Revenue and Regulation
Anderson Building
Garden Level Conference Room
Pierre, South Dakota
August 20, 2009, 1:00 p.m.**

For further information and registration contact the Professional Appraisers Association of South Dakota (PAASD). (Telephone: 605.716.9011 or Website at www.paasd.com)

[Note: The Dept. of Revenue and Regulation Training Course for Supervising Appraisers and State-Registered Appraisers

is the only acceptable course to meet the education program requirements for South Dakota licensees (supervisors and state-registered appraisers.)]

Appraiser Qualifications Board Q&A

Vol. 1, No. 1 – June 2009

The Appraiser Qualifications Board (AQB) of The Appraisal Foundation establishes the minimum education, experience and examination requirements for real property appraisers to obtain a state certification. The AQB Q&A is a form of guidance issued by the AQB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria in specific situations and to offer advice from the AQB for the resolution of appraisal issues and problems. The AQB Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. AQB Q&A does not establish new Criteria. AQB Q&A is not part of the Real Property Appraiser Qualification Criteria. AQB Q&A is approved by the AQB without public exposure and comment.

Foreign College Degrees

Question: I have a 4-year undergraduate degree from the University of Mexico and wonder if my degree meets the college requirements of the Certified General Real Property Appraiser Criteria?

Required Core Curriculum and Appraisal Subject Matter Electives

Question: I understand that as part of the *Required Core Curriculum* for either the 200 hours for a Certified Residential credential or the 300 hours for a Certified General credential, that I am required to take Appraisal Subject Matter Electives. What courses qualify as Electives?

Applicability of Core Curriculum Hours Earned for One Credential Toward Satisfying Hours for Another Credential

Question: I was going to become a Certified Residential appraiser but after taking 45 hours of residential classes I decided to go for my Certified General

credential instead. How many hours out of the 45 can be utilized satisfying the 300-hour requirement?

Additional Education and Experience When Changing a Credential

Question: I hold a Licensed Residential credential and need to upgrade to a Certified Residential credential to remain on the FHA roster. What courses do I need to take?

Preparation for the Licensed Residential, Certified Residential and Certified General National Examinations

Question: Is there a study guide for the Licensed Residential, Certified Residential or Certified General examinations?

Answers to the above questions can be found at: www.appraisalfoundation.org.

2009 Legislation Regarding Appraisers Effective July 1, 2009

That § 36-21B-7 be amended to read as follows:

36-21B-7. The secretary of the Department of Revenue and Regulation may impose a monetary penalty not to exceed one thousand dollars or require additional educational course requirements, or both, of a person licensed pursuant to this chapter upon proof of a violation of the rules relating to appraisers and appraisals as adopted by the department pursuant to chapter 1-26 or a violation of this chapter.

That chapter 36-21B be amended by adding thereto a NEW SECTION to read as follows:

No real estate appraiser with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment may improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal by:

- (1) Coercion, extortion, or bribery;
- (2) Withholding or threatened withholding of payment for an appraisal fee;
- (3) Conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached;
- (4) Requesting that the appraiser report a predetermined opinion, conclusion, or valuation or the desired valuation of any person; or

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(5) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality.

A violation of this section may constitute grounds for discipline against a real estate appraiser who is registered, licensed, or certified pursuant to the laws of the State of South Dakota.

Section 2. That chapter 36-21B be amended by adding thereto a NEW SECTION to read as follows:

No person violates section 1 of this Act solely by asking a real estate appraiser to consider additional, appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the Department of Revenue and Regulation pursuant to this chapter. A person does not violate section 1 of this Act solely by retaining a real estate appraiser from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards

adopted by the department, such as agreements of sale, options, or listings of the property to be valued.

(Chapter number to be assigned.)

Federal Housing Administration (FHA) South Dakota Questions Answered

Question 1. Does a "certified" general or residential appraiser have to have held the certification for a minimum of two (2) years in order to be eligible for the FHA Roster?

Answer: No. In order to be eligible for the FHA roster you must be State Certified. There is no "minimum time in grade" so to speak.

Question 2. Does FHA allow an entry level appraiser (e.g., trainee) to assist the supervisor in the preparation of a FHA appraisal assignment if the certified supervisory appraiser is on the FHA approved roster?

Answer: FHA accepts only the signature of the approved roster appraiser on

an appraisal prepared for FHA mortgage insurance. FHA does not allow supervisory appraisers. A trainee may assist the approved roster appraiser however, the approved roster appraiser must inspect the subject property and the comparable sales and develop the opinion of value and sign the report. The trainee may assist with data collection, building measurement, report production, etc. However, the value conclusion must be the work and opinion of the approved roster appraiser only. The trainee appraiser may be identified in the appraisal report as having assisted the approved roster appraiser for the purpose of validating the experience of the trainee for state certification or professional designation purposes.

Question 3. Does FHA allow for a state-licensed appraiser to assist the supervisor in the preparation of a FHA appraisal assignment if the certified supervisory appraiser is on the FHA approved roster?

The above requirements and restrictions will apply to all (previously roster approved or any other) state licensed appraisers as of October 1, 2009, the cut off for becoming state certified in order to remain on the FHA approved appraiser roster.